



DEAN ANDAL
Chairman, Board of Equalization

Agriculture Update

Certain Sales of Sulfur Dioxide Gas Not Subject to Tax

Earlier this year, the California Grape & Tree Fruit League and Snowden Enterprises wrote to the Board of Equalization regarding the application of tax to sales of sulfur dioxide gas. After several discussions, an attorney with the BOE issued a legal opinion stating that, under certain conditions, sales of sulfur dioxide gas are nontaxable sales for resale.

Snowden Enterprises sells sulfur dioxide gas to individuals who apply the gas to grapes as a preservative. The gas residue (which provides beneficial preservative effects) becomes a com-



ponent part of the grapes.

“Products applied as edible waxes and other similar coatings purchased for the purpose of physically incorporating them into the fruits and vegetables as an essential ingredient, for example, products whose physical presence in the hands of the consumer are necessary to provide the desired preservative benefits, may be purchased for resale.”

Consequently, the initial sale of the sulfur dioxide gas by Snowden is a nontaxable sale for resale.

Retail Feed and Farm Tax Tips Update

The Board’s Publication 66, *Tax Tips for Retail Feed and Farm Supply Stores*, will soon be updated with information on a number of areas, including:

- Nontaxable sales – supporting documentation, exemption and resale certificates;
- Written tax advice; and
- Application of tax to specific transactions.

The revised publication is currently in the “preliminary clearance” process ... however, look for an updated version in the near future on the BOE’s website at <http://www.boe.ca.gov/staxpubs.htm> or call 1-800-400-7115 and ask to have one sent to you.

Regulatory Action

The following regulatory change was approved at a recent BOE public hearing:

Regulation 1595: *Occasional Sales*.

This change provides that when a person who is *not* required to hold a seller’s permit makes a series of sales in a 12-month period, the first two sales are tax exempt whether or not a third sale takes place. Under the old regulation, the third sale retroactively triggered the

first two sales as taxable – requiring taxpayers to attempt to collect tax owed on previous sales. With the new change, tax won’t have to be collected on the first two sales; however, the third sale is subject to tax and the person is then required to obtain a seller’s permit. All subsequent sales during any 12-month period which resulted in the requirement to hold a permit are subject to tax unless otherwise exempt (i.e., sales for resale or sales in interstate commerce).

For example:

You sell a tractor in March, 2001. In June of the same year you sell a canning device. Then in February of 2002, you sell a forklift. Only the sale of the forklift would be taxable, at which time you would obtain a seller’s permit, collect the tax and remit it to the Board.

This change will be submitted to the Office of Administrative Law for final approval.

Recently Enacted Legislation - Statutes 2000

Tax Relief: Vineyards: Pierce's Disease.

AB 1790 – Chapter 272, Statutes of 2000

Effective January 1, 2001, this bill eliminates the requirement that grapevines removed due to Pierce's disease or phylloxera be of a "similar type" to qualify for property tax base year value transfers since replanted vines may need to be of a different variety that is not vulnerable to these diseases. If the grapevines are replanted at a greater density, a base year value transfer will be allowed, but the transfer will be limited to an equivalent number of replacement grapevines. The portion in excess of a substantially

equivalent amount is to be assessed at current market value.

Farmworker Housing

AB 1811 – Chapter 311, Statutes of 2000

Current law provides \$500,000 in tax credits to those who build farmworker housing. Each year, the Tax Credit Allocation Committee may award a total of \$500,000 in credits for a program that provides tax credits to banks which provide loans for farmworker housing at below-market rates. To be awarded the credit, the taxpayer must have first incurred some construction costs. To claim the credit *on a tax return*, the housing must be occupied. Until now, no credits have been allocated be-

cause of these restrictions. AB 1811 will make it more attractive for taxpayers to build farmworker housing by allowing the credit to be awarded prior to incurring construction costs and to be claimed when the property is ready for occupancy rather than when occupied.

Commercial Trailers and Semitrailers

SB 2084 – Chapter 861 of 2000

Effective September 29, 2000, this bill ensures that commercial trailers and semitrailers do not become subject to taxation under property tax law once they are no longer subject to the vehicle license fee.

Additional \$6.9 Billion Revenue Surplus \$\$\$\$



For the fifth year in a row, California will face a multi-billion dollar surplus at the end of this fiscal year. Much of this surplus is due to the state's continued economic boom – which inevitably led to higher receipts in income taxes as well as sales taxes. In fact, taxable sales are projected to grow by 11.7 percent this year alone – the highest gain experienced in California since 1984.

The surplus also takes in to consideration the fact that the state sales tax will be reduced by a quarter of a cent on January 1, 2001 due to an automatic trigger which requires the reduction under certain economic conditions.

The legislature will have over \$10 billion in additional revenue to consider during its 2001-2002 budget negotiations. Let's hope a great majority of it will be returned to its rightful owners: California's taxpayers.



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